

Environmental Protection Agency

§ 49.166

§ 49.165 [Reserved]

FEDERAL MAJOR NEW SOURCE REVIEW PROGRAM FOR NONATTAINMENT AREAS IN INDIAN COUNTRY

SOURCE: 76 FR 38802, July 1, 2011, unless otherwise noted.

§ 49.166 Program overview.

(a) *What constitutes the Federal major new source review (NSR) program for nonattainment areas in Indian country?* As set forth in this Federal Implementation Plan (FIP), the Federal major NSR program for nonattainment areas in Indian country (or “program”) consists of §§ 49.166 through 49.175.

(b) *What is the purpose of this program?* This program has the following purposes:

(1) It establishes a preconstruction permitting program for new major sources and major modifications at existing major sources located in nonattainment areas in Indian country to meet the requirements of part D of title I of the Act.

(2) It requires that major sources subject to this program comply with the provisions and requirements of part 51, Appendix S of this chapter (Appendix S). Additionally, it sets forth the criteria and procedures in Appendix S that the reviewing authority (as defined in § 49.167) will use to approve permits under this program. Note that for the purposes of this program, the term SIP as used in Appendix S means any EPA-approved implementation plan, including a Tribal Implementation Plan (TIP). While some of the important provisions of Appendix S are paraphrased in various paragraphs of this program to highlight them, the provisions of Appendix S govern.

(3) It also sets forth procedures for appealing a permit issued under this program as provided in § 49.172.

(c) *When and where does this program apply?*

(1) The provisions of this program apply to new major sources and major modifications at existing major sources located in nonattainment areas in Indian country where there is no EPA-approved nonattainment major NSR program beginning on August 30, 2011. The provisions of this program

apply only to new sources and modifications that are major for the regulated NSR pollutant(s) for which the area is designated nonattainment.

(2) The provisions of this program cease to apply in an area covered by an EPA-approved implementation plan on the date that our approval of that implementation plan becomes effective, provided that the plan includes provisions that comply with the requirements of part D of title I of the Act and § 51.165 of this chapter for the construction of new major sources and major modifications at existing major sources in nonattainment areas. Permits previously issued under this program will remain in effect and be enforceable as a practical matter until and unless the Tribe issues new permits to these sources based on the provisions of the EPA-approved Tribal implementation plan.

(d) *What general provisions apply under this program?* The following general provisions apply to you as an owner/operator of a source:

(1) If you propose to construct a new major source or a major modification at an existing major source in a nonattainment area in Indian country, you must obtain a major NSR permit under this program before beginning actual construction. If you commence construction after the effective date of this program without applying for and receiving a permit pursuant to this program, you will be subject to appropriate enforcement action.

(2) If you do not construct or operate your source or modification in accordance with the terms of your major NSR permit issued under this program, you will be subject to appropriate enforcement action.

(3) Issuance of a permit under this program does not relieve you of the responsibility to comply fully with applicable provisions of any EPA-approved implementation plan or FIP and any other requirements under applicable law.

(4) Nothing in this program prevents a Tribe from administering a nonattainment major NSR permit program with different requirements in an approved TIP as long as the TIP meets the requirements of part D of title I of the Act.